

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**IN RE: PHARMACEUTICAL INDUSTRY AVERAGE
WHOLESALE PRICE LITIGATION**

**MDL No. 1456
C.A. No. 01-12257-PBS**

THIS DOCUMENT RELATES TO ALL ACTIONS

Judge Patti B. Saris

**MOTION FOR INJUNCTION AGAINST ROBERT J. SWANSTON AND
DONALD E. HAVILAND FROM PURSUING OVERLAPPING CLAIMS AND
DEFENDANTS IN *SWANSTON V. TAP PHARMACEUTICAL PRODUCTS, INC., ET AL.***

Despite this Court's September 11, 2007 ruling that Mr. Donald E. Haviland cannot pursue state claims and defendants overlapping with claims and defendants in MDL No. 1456 ("MDL"), Mr. Haviland and his client, Mr. Robert J. Swanston, continue to do so in *Swanston v. TAP Pharmaceutical Products, Inc., et al.*, Superior Court of the State of Arizona in and for the County of Maricopa, CV2002-004988 (Hon. Janet E. Barton) ("*Swanston*"). The defendants in *Swanston* that are also defendants in the MDL (the "Swanston Defendants")¹ proposed a dismissal of overlapping claims and defendants consistent with this Court's September 11 order and the dismissal previously effected in the New Jersey AWP case. Unfortunately, Mr. Haviland continues to pursue overlapping claims and defendants in *Swanston*. For the reasons outlined during the September 11 hearing and for the reasons outlined in the attached memorandum in support, the Swanston Defendants respectfully request that this Court enjoin Robert J. Swanston,

¹ The Swanston Defendants include: Abbott Laboratories; Amgen Inc.; Zeneca, Inc.; AstraZeneca Pharmaceuticals L.P.; AstraZeneca LP; Aventis Pharmaceuticals Inc.; Hoechst Marion Roussel, Inc.; ZLB Behring, L.L.C. (f/k/a Aventis Behring L.L.C.); Baxter International Inc.; Baxter Healthcare Corporation; Bayer Corporation; Bristol-Myers Squibb Co.; Oncology Therapeutics Network Corp.; Apothecon, Inc.; Dey, Inc.; Fujisawa Healthcare, Inc.; Fujisawa USA, Inc.; Immunex Corporation; Johnson & Johnson; Centocor, Inc.; Ortho Biotech Products, L.P.; Pharmacia Corporation; Pharmacia & Upjohn LLC, f/k/a Pharmacia & Upjohn, Inc.; Monsanto Company; Schering-Plough Corporation; Warrick Pharmaceuticals Corporation; Sicor, Inc.; Gensia, Inc.; and Gensia Sicor Pharmaceuticals, Inc.

Donald E. Haviland, or any other putative class representative from pursuing claims and defendants in *Swanston* that overlap with those in the MDL. An appropriate order is attached.

/s/ J. Andrew Jackson

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CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that I caused a true and correct copy of the foregoing document to be served on all counsel of record in this case electronically via Lexis-Nexis File & Serve on December 31, 2007.

/s/ Jared D. Rodrigues

Jared D. Rodrigues